

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21562
Docket Number SG-21701

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company
((Texas and Louisiana Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company - Texas and Louisiana Lines):

On behalf of Assistant Signalman William Preston Russell, Jr., Houston Division, for reinstatement to service without loss of pay and rights unimpaired.

OPINION OF BOARD: On August 21, 1975, Claimant was notified to attend an investigation on the following charge:

"You were charged with falsification of your personal record, Form S-2946, signed by you on July 26, 1974, when you answered 'no' to question No. 19, 'Have you ever been convicted,' when records of the Harris County Court No. 2 show that you were arrested on May 7, 1973, in case No. 179844, charged with fleeing a police officer, and that you were convicted of that charge on August 1, 1973, and received a (30) thirty-day jail sentence, which was probated for six (6) months."

Subsequent to investigation, Claimant's services were terminated.

There is no question that Claimant pled guilty to and was convicted of (on August 1, 1973) the offense of "fleeing a police officer", and that he was fined \$149.00 (\$100.00 fine and \$49.00 Court costs) and received a thirty (30) day jail sentence, probated for six (6) months. It is equally uncontroverted that on July 26, 1974, he wrote "No" in answer to Question 19 on the employment application, "Have you ever been convicted?"

Claimant requests this Board to accept his assertion that he did not deliberately falsify his application because "I did not know and I thought it was a speeding violation because of fleeing, I was speeding." Moreover, he states that he was under the impression that his probated sentence cleared his record with the Police Department.

Although we have noted the Claimant's testimonial assertions, there is simply nothing of record which would tend to corroborate his stated misunderstanding of his history. The conviction occurred less than one year prior to his falsification so that the events should not have been vague in his mind. Further, he testified that he had signed a piece of paper concerning the 6 months' probation "...and if I recived any offense, I would be put in jail." We can only conclude that his falsification was deliberate.

Item 26 of the application form signed by Claimant clearly warns that false statements contained therein will justify and cause termination.

Carrier cites a number of Awards which have concluded that falsification of an employment record is a proper basis for dismissal. There is nothing contained in this record which would impel us to reach a contrary conclusion.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim denied.

ATTEST:


Executive Secretary

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 31st day of May 1977.